

Exhibit 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	<u>NOLLE PROSEQUI</u>
	:	
- v. -	:	24 Cr. 556 (DEH)
	:	
ERIC ADAMS,	:	
	:	
Defendant.	:	
	:	
-----	X	

1. The United States respectfully submits this motion seeking dismissal without prejudice of the charges in this case, with leave of the Court, pursuant to Rule 48(a) of the Federal Rules of Criminal Procedure.¹ *See United States v. Blaszcak*, 56 F.4th 230, 238 (2d Cir. 2022) (reasoning that “[t]he government may elect to eschew or discontinue prosecutions for any of a number of reasons,” including based on announcements relating to “general policy.”); *United States v. Fokker Servs. B.V.*, 818 F.3d 733, 742 (D.C. Cir. 2016) (“[D]ecisions to dismiss pending criminal charges—no less than decisions to initiate charges and to identify which charges to bring—lie squarely within the ken of prosecutorial discretion.”); *United States v. Amos*, 2025 WL 275639, at *2 (D.D.C. 2025) (“[T]he government’s view of the public interest does not clearly fall within the types of reasons found to provide legitimate grounds to deny the government Rule 48(a) motion to dismiss charges.”).

2. Through counsel, Defendant Eric Adams has consented in writing to this motion and agreed that he is not a “prevailing party” for purposes of the Hyde Amendment. *See* P.L. 105-119, § 617, 111 Stat. 2440, 2519; 18 U.S.C. § 3006A note.

¹ The undersigned attorneys from the Department of Justice have replaced AUSAs from the U.S. Attorney’s Office for the Southern District of New York as counsel of record in this case. The Department of Justice will handle this matter and any related decision-making in the future.

3. On September 24, 2024, Adams was charged in a five-count Indictment, 24 Cr. 556 (DEH).

4. The Acting Deputy Attorney General has determined, pursuant to an authorization by the Attorney General, that dismissal is necessary and appropriate, and has directed the same, based on the unique facts and circumstances of this case.

5. In connection with that determination and directive, the Acting Deputy Attorney General concluded that dismissal is necessary because of appearances of impropriety and risks of interference with the 2025 elections in New York City, which implicate Executive Order 14147, 90 Fed. Reg. 8235. The Acting Deputy Attorney General reached that conclusion based on, among other things, review of a website² maintained by a former U.S. Attorney for the Southern District of New York and an op-ed published by that former U.S. Attorney.³

6. In connection with that determination and directive, the Acting Deputy Attorney General also concluded that continuing these proceedings would interfere with the defendant's ability to govern in New York City, which poses unacceptable threats to public safety, national security, and related federal immigration initiatives and policies. *See, e.g.*, Executive Order 14159, 90 Fed. Reg. 8443; Executive Order 14165, 90 Fed. Reg. 8467. The Acting Deputy Attorney General reached that conclusion after learning, among other things, that as a result of these proceedings, Adams has been denied access to sensitive information that the Acting Deputy Attorney General believes is necessary for Adams to govern and to help protect the City.

² <https://www.damianwilliamsofficial.com>.

³ <https://www.cityandstateny.com/opinion/2025/01/opinion-indictment-sad-state-new-york-government/402235/?oref=csny-author-river>.

7. Accordingly, the United States respectfully requests, on consent, that the Court enter an order of *nolle prosequi* pursuant to Rule 48(a), without prejudice, with respect to all of the charges in Indictment 24 Cr. 556 (DEH).

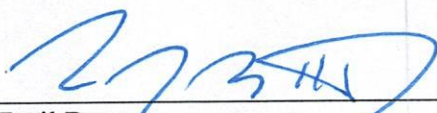
Dated: February 14, 2025

_____/s/_____
Antoinette T. Bacon
Supervisory Official
Criminal Division
United States Department of Justice

Edward Sullivan
Senior Litigation Counsel
Public Integrity Section
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United States Department of Justice
(202) 514-2000

Based on the foregoing, I hereby direct, with leave of the Court, that an order of *nolle prosequi* pursuant to Rule 48(a), without prejudice, be filed as to Defendant Eric Adams with respect to Indictment 24 Cr. 556 (DEH).

Dated: February 14, 2025



Emil Bove
Acting Deputy Attorney General
United States Department of Justice

SO ORDERED:

THE HONORABLE DALE E. HO
United States District Judge
Southern District of New York

Dated:
New York, New York

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will serve all counsel of record.

_____/s_____
Edward Sullivan
Senior Litigation Counsel

Dated: February 14, 2025